

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1025 Session of 2023

INTRODUCED BY N. NELSON, FRANKEL, McNEILL, HANBIDGE, KAZEEM, PISCIOTTANO, PIELLI, BRIGGS, MADDEN, SANCHEZ, SCHLOSSBERG, GUENST, HOHENSTEIN, DELLOSO, HILL-EVANS, HARKINS, FLEMING, STURLA, WARREN, KINKEAD, FREEMAN, O'MARA, OTTEN, CEPEDA-FREYTIZ, BOROWSKI, CERRATO, KHAN, SIEGEL, MAYES, PROBST, ISAACSON, SCOTT, GIRAL, GALLAGHER, BENHAM, TAKAC, T. DAVIS, SMITH-WADE-EL, SALISBURY, SAMUELSON, BRENNAN, VITALI, WEBSTER, DALEY, SHUSTERMAN, DONAHUE AND GUZMAN, APRIL 25, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 7, 2023

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in Safe2Say Program, further
6 providing for definitions and for Safe2Say Program; in
7 postsecondary institution sexual harassment and sexual
8 violence policy and online reporting system, further
9 providing for definitions, for policy for postsecondary
10 institution sexual harassment and sexual violence and for
11 online reporting system; and making an editorial change.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1302-D of the act of March 10, 1949
15 (P.L.30, No.14), known as the Public School Code of 1949, is
16 amended by adding a definition to read:

17 Section 1302-D. Definitions.

18 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Hate-based intimidation." A criminal act of inflicting
5 physical injury on another individual, harm to property or other
6 type of injury, which is motivated by hatred toward the actual
7 or perceived race, color, religion, national origin, ancestry,
8 sex, gender, gender identity, gender expression, sexual
9 orientation or disability of another individual or group of
10 individuals with which the other individual is associated.

11 * * *

12 Section 2. Section 1303-D(c) (1) and (2) and (d) of the act
13 are amended and subsection (c) is amended by adding a paragraph
14 to read:

15 Section 1303-D. Safe2Say Program.

16 * * *

17 (c) Program requirements.--Beginning January 14, 2019, the
18 program shall be responsible for the following:

19 (1) To ensure anonymous reporting concerning unsafe,
20 potentially harmful, dangerous, violent [or] and criminal
21 activities, including, but not limited to, the reporting of
22 hate-based intimidation, in a school entity or the threat of
23 the activities in a school entity.

24 (2) To establish protocols and procedures to promptly
25 notify the appropriate law enforcement agency via 911 centers
26 and the Pennsylvania State Police when the program receives
27 an anonymous report of violent [or] and criminal activities,
28 including an anonymous report of hate-based intimidation, in
29 a school entity that poses an immediate threat of violence or
30 criminal activity and creates a substantial risk of serious

1 bodily injury.

2 * * *

3 (11) To train and provide instruction to employees of
4 school entities on how to recognize and report hate-based
5 intimidation by incorporating such training and instruction
6 into current training.

7 (d) School entity.--Each school entity shall:

8 (1) develop procedures for assessing and responding to
9 reports received from the program[.]; and

10 (2) require each school in the school entity to
11 incorporate into periodic in-service training sessions
12 appropriate instruction in recognizing and reporting conduct,
13 including hate-based intimidation, that poses an immediate
14 threat of violence and creates a substantial risk of serious
15 bodily injury to any person.

16 Section 3. Article XX-J heading of the act is amended to
17 read:

18 ARTICLE XX-J
19 POSTSECONDARY INSTITUTION SEXUAL HARASSMENT [AND] SEXUAL
20 VIOLENCE AND HATE-BASED INTIMIDATION POLICY AND
21 ONLINE REPORTING SYSTEM

22 Section 4. Section 2001-J of the act is amended by adding a
23 definition to read:

24 Section 2001-J. Definitions.

25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Hate-based intimidation." A criminal act of inflicting
29 physical injury on another individual, harm to property or other
30 type of injury, which is motivated by hatred toward the actual

1 or perceived race, color, religion, national origin, ancestry,
2 sex, gender, gender identity, gender expression, sexual
3 orientation or disability of another individual or group of
4 individuals with which the other individual is associated.

5 * * *

6 Section 5. Sections 2002-J and 2003-J of the act are amended
7 to read:

8 Section 2002-J. Policy for postsecondary institution sexual
9 harassment [and], sexual violence and hate-based
10 intimidation.

11 (a) Adoption.--A postsecondary institution shall adopt a
12 clear, understandable written policy on sexual harassment [and],
13 sexual violence and hate-based intimidation that informs victims
14 and students of their rights under Federal and State law,
15 including the crime victims bill of rights. No later than
16 December 31, 2023, a postsecondary institution shall amend its
17 current policy on sexual harassment and sexual violence to
18 include provisions to govern hate-based intimidation.

19 (b) Report.--

20 (1) The sexual harassment [and], sexual violence and
21 hate-based intimidation policy under subsection (a) shall
22 include a provision that a witness or victim of an incident
23 of sexual harassment [or], sexual violence or hate-based
24 intimidation who reports the incident in good faith will not
25 be sanctioned by the institution for admitting in the report
26 to a violation of the institution's student conduct policy on
27 the personal use of drugs or alcohol.

28 (2) Nothing in this article may be construed to prohibit
29 a postsecondary institution from including a provision in its
30 sexual harassment, sexual violence and hate-based

1 intimidation policy to govern the receipt of reports from the
2 general public, provided that the public reports involve a
3 student of the postsecondary institution.

4 (c) Model policy.--The Department of Education shall develop
5 a model policy and make the model policy available to
6 postsecondary institutions. A postsecondary institution may
7 adopt the model policy as the policy of the institution on
8 sexual harassment [and], sexual violence and hate-based
9 intimidation.

10 (D) CONSTRUCTION.--NOTHING IN THIS SECTION MAY BE CONSTRUED <--
11 TO INFRINGE OR LIMIT AN INDIVIDUAL'S RIGHTS OR FREEDOMS THAT ARE
12 OTHERWISE PROTECTED BY THE CONSTITUTION OF THE UNITED STATES OR
13 THE CONSTITUTION OF PENNSYLVANIA.

14 Section 2003-J. Online reporting system.

15 (a) Establishment of online reporting system.--A
16 postsecondary institution shall establish and maintain an online
17 reporting system to receive complaints of sexual harassment
18 [and], sexual violence and hate-based intimidation from students
19 and employees. A report shall be investigated through the
20 process established in the postsecondary institution's sexual
21 harassment [and], sexual violence and hate-based intimidation
22 policy. A postsecondary institution may not fail or refuse to
23 investigate an anonymous report because it is anonymous.

24 (b) Anonymous reports.--The online reporting system shall
25 permit anonymous reports, which shall be investigated in
26 accordance with subsection (a).

27 (c) Required information.--A postsecondary institution shall
28 provide students and employees making reports under this section
29 with the following:

30 (1) Information regarding who will receive and have

1 access to the reports filed.

2 (2) How information gathered through the online
3 reporting system will be used.

4 (3) Contact information for on-campus and off-campus
5 organizations serving victims of sexual harassment [and],
6 sexual violence and hate-based intimidation.

7 (d) Statement.--The online reporting system shall
8 prominently post the online system's policy regarding reports
9 and investigations of sexual harassment [and], sexual violence
10 and hate-based intimidation and shall encourage individuals to
11 review the policy for more information about procedures and
12 resources.

13 (e) Access to data.--A postsecondary institution shall limit
14 access to the data collected, created or maintained under
15 subsection (a) to only the data subject and as follows:

16 (1) Only individuals with explicit authorization from a
17 postsecondary institution may enter, update, access, share or
18 disseminate electronic data related to an incident of sexual
19 harassment [or], sexual violence and hate-based intimidation
20 collected, created or maintained under this section.

21 (2) The ability of an authorized individual to enter,
22 update, access, share or disseminate data must be limited
23 through the use of role-based access that corresponds to the
24 official duties or training level of the individual and the
25 institutional authorization that grants access for that
26 purpose.

27 (3) Actions in which the data related to an incident of
28 sexual harassment [or], sexual violence or hate-based
29 intimidation are entered, updated, accessed, shared or
30 disseminated outside the postsecondary institution must be

1 recorded in a data audit trail.

2 (4) An institution shall immediately and permanently
3 revoke the authorization of an individual determined to have
4 willfully entered, updated, accessed, shared or disseminated
5 data in violation of this section.

6 (5) An institution or individual implementing, operating
7 or working for the program may not be compelled to produce a
8 record except pursuant to a court order.

9 Section 6. This act shall take effect immediately.